IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

TUESDAY THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR
: PRESENT:
THE HON'BLE MR. JUSTICE: **L. NARASIMHA REDDY**

C.R.P. NO. 5313 OF 2003
AND
CONTEMPT CASE No. 1419 of 2002

C.R.P. NO. 5313 OF 2003

(Petition under Section 115 of C.P.C. to revise the order of the Court of the Junior Civil Judge, Atmakur passed in E.P. No. 64 of 2002 in O.S. No. 58 of 1996 dated: 02-09-2002)

Between:

S. Ahammed Miah S/o Chinna Mohammed Miah, Railor R/o Atmakur, Kurnool Dist.

…. Petitioner/(J.Dr. No. 1)

AND

1. Smt. Shaikunnibee, W/o. Syed Noor.
2. Smt Samsad Begum, W/o Shaik Khasimvali
   (Both are Muslims, R/o. Atmakur Village and Mandal, Kurnool District).

…. Respondents/D.Hrs. NO. 1 & 2

3. Shaik Noor Ahammed, S/o. Mohiddin Saheb, Painter, R/o. Hospet, Karnataka State.
4. Tailor Sattar, S/o. Hussain Sab.
5. S. Anwar Basha, S/o. Mabu Peera.
6. D. Mohd. Haneef, S/o. Mohd. Hussain.
7. S. Khaja Mohiddin, S/o. Abdul Sattar.
8. Kummari Rama Swamy, S/o. Anjanappa.
9. S. Ahammed Miah, S/o. Hussain Saheb.
10. Ahmed Miah, S/o. Husain Saheb.
    (All are Muslims, residents of Atmakur Village, and Mandal, Kurnool District)

…. Respondents/(J.D.rs 2 to 9)

(Respondents 1 & 3 to 10 are not necessary parties to the CRP)

COUNSEL FOR THE PETITIONERS: Mr. C. Prakash Reddy.
COUNSEL FOR RESPONDENTS:

C.C. No. 1419 of 2002

Between:

1. Smt.Shaikunni Bee
2. Smt.Samsad Begum — Petitioners

And

1. S.Ahammed Miah S/o Chinna Mohammed Miah, R/o Atmakur, Kurnool dist.
2. Shaik Noor Ahammed S/o Mohiuddin Saheb, R/o Hospeta, Bellary district, Karnataka State.

Respondents

Whereas the above named Petitioners hath presented the above case under Sections 10 to 12 of the Contempt of Courts Act through their counsel Mr. P. Gangarami Reddy, praying the High Court to punish the Respondents herein for violation of the orders passed in C.M.P.NO.2174 of 2002 in C.M.A. No. 3125 of 2002 dated: 06.11.2002 .

The Court observed that CRP. No. 5313 of 2003 is filed by the Judgment Debtor in E.P. No. 64 of 2002 in O.S. No. 58 of 1996, on the file of the Junior Civil Judge, Atmakur and challenges the proceedings, dated: 02-09-2004, through which the Executing Court had directed recovery of possession from the petitioner and certain others; one of the contentions raised in the C.R.P. is that the respondents deliberately misled the Executing Court by stating that no appeal was preferred against the decree.

..2..

It is pleaded that the petitioner and another person, by name Shaik Noor Ahmed filed an appeal before the Court of Senior Civil Judge, Atmakur, aggrieved by the decree in O.S. No. 58 of 1996, dated: 01-06-2002, passed by the Court of Junior Civil Judge, Atmakur, and that they have also filed I.A. No. 28 of 2002, under Section 151 of CPC for stay of operation of the decree in O.S. No. 58 of 1996. it is stated that the respondents 1 and 2 filed caveat and their counsel, by name K. Govinda Reddy was served with notice on 29-08-2002. I is alleged that in the E.P. filed on 02-09-2002, it was deliberately stated that no appeal was pending, against Column No.5 of the E.P. In fact it is their case that column Nos. 4 to 8 were left blank;

To verify the correctness of these allegations, this Court called for the Original record in E.P. No. 64 of 2002. The Record has since been received, it is evident from the same that the E.P. was filed on 02-09-2002, and it was taken up by the learned Junior Civil Judge, Nandikotkur, who was holding full Additional Charge of the Court of Junior Civil Judge, Atmakur. In Column NO. 5 of the E.P, which relates to the information as to whether any appeal was preferred from the decree, it was endorsed as “No”. The E.P. is signed by respondents 1 and 2 and their counsel have misled the Executing Court by stating that no appeal is pending, though they were aware of the fact that the appeal was presented and notice was served on them on 02-09-2002 itself.

Whereas the Court upon observing these facts and circumstances and upon hearing the arguments of Mr. P. Gangarami Reddy, Advocate for the petitioners and directed to issue notice to the respondents 1 and 2 and their Mr. K. Govinda Reddy to show cause within fifteen days from today as to why suitable action in accordance with law be not initiated against them;

You namely :

1. S.Ahammed Miah S/o Chinna Mohammed Miah, R/o Atmakur, Kurnool dist.
2. Shaik Noor Ahammed S/o Mohiuddin Saheb, R/o Hospeta, Bellary district, Karnataka State.
3. K. Govinda Reddy, Advocate, Atmakur, Kurnool District.

be and hereby are directed to show cause either appearing in person or through Advocate duly instructed within 15 (fifteen) days on or before **18-08-2004** to which date the case stands posted for admission of the same, against the said case, failing wherein the said case will be heard and determined exparte.

DEPUTY REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Judge, Kurnool District, Kurnool. **(in duplicate along with copy of petition and affidavit for service on the Respondent No.1 Mr. S. Ahmmed Miah and his counsel Mr. K. Govinda Reddy and return to the High Court before 18-08-2004).**
2. The District Judge, Bellary District, Karnataka State. **(in duplicate along with copy of petition and affidavit for service on the Respondent No.2 Mr. Shaik Noor Ahmmed and return to the High Court before 18-08-2004).**
3. The Junior Civil Judge, Atmakur, Kurnool District.
4. S. Ahammed Miah S/o Chinna Mohammed Miah, R/o Atmakur, Kurnool Dist.
5. Shaik Noor Ahammed S/o Mohiuddin Saheb, R/o Hospeta, Bellary District, Karnataka State.
6. Mr. K. Govinda Reddy, Advocate, Atmakur, Kurnool District. **(Addressees 4 to 6 by SPEED POST along with a copy of petition & affidavit)**
7. One spare copy.

Ksv

HIGH COURT

Ksv
Date of drafting: 04-08-2004

LNRJ

DATE: 03-08-2004

NOTE: POST ON 18-08-2004

ORDER

C.R.P. NO. 5313 OF 2003
AND
C.C. No. 1419 of 2002

NOTICE TO THE RESPONDENTS
AND THEIR COUNSEL